

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

DISCUSSION OF OFFICE OF THE INSPECTOR GENERAL'S
SEMI-ANNUAL REPORT TO THE CONGRESS

Thursday, May 25, 2000

4:10 p.m.

Legal Services Corporation
750 First Street, N.E.
11th Floor Conference Room
Washington, D. C.

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chair
John N. Erlenborn, Vice Chair
Hulett H. Askew Maria Luisa Mercado
LaVeeda Morgan Battle Nancy Rogers
John T. Broderick, Jr. Thomas F. Smegal, Jr.
Edna Fairbanks-Williams Ernestine P. Watlington
F. William McCalpin

STAFF PRESENT:

John McKay, President
Victor Fortuno, VP for Legal Affairs, General Counsel &
Corporation Secretary
James J. Hogan, VP for Administration
Danilo Cardona
Michael Genz
John Meyer

C O N T E N T S

PAGE

MOTIONS:

| | |
|---|----|
| To Adopt Draft Board Comments | 39 |
| To Approve Final Draft of Board Comments | 39 |

1 P R O C E E D I N G S

2 MR. EAKELEY: Well, why don't I declare the
3 presence of a quorum and call the meeting to order. The
4 purpose of the meeting as advised is to consider the draft
5 board comments on the semi-annual report of the office of
6 general inspector.

7 MR. CARDONA: Inspector general.

8 MR. EAKELEY: The office of inspector general,
9 forgive me. I also have copies of the draft comments. I
10 also had asked to be circulated comments of the inspector
11 general to a couple of the issues presented in the draft of
12 our comments.

13 MS. BATTLE: This is LaVeeda Battle. I have just
14 joined the conference.

15 MR. EAKELEY: Hi, LaVeeda, we've just started.

16 MS. WATLINGTON: And Ernestine Watlington too.

17 MR. ERLNBORN: Great. How are you doing, Ernestine?

18 MS. WATLINGTON: I'm hanging in there.

19 MR. EAKELEY: We were so sorry to hear about your
20 brother. We've been thinking about you constantly.

21 MS. WATLINGTON: I know and I thank you for all

1 your concerns and the interest you've shown. It's been a big
2 help just knowing people cared. I still haven't had the
3 remains buried yet. I'm trying to do it for Saturday. It's
4 been a trip.

5 MR. EAKELEY: We've got Bucky Askew, John
6 Broderick, Nancy Rogers, John Erlenborn, Bill McCalpin and
7 Edna Fairbanks-Williams also on the line. And LaVeeda just
8 came on before you did, Ernestine. And we had just started
9 by calling the meeting to order. And I was going to open the
10 meeting to comments on the draft comments that were
11 circulated.

12 And I would propose that we just go through page by
13 page unless somebody would prefer doing it some other way and
14 can convince the majority of those present that that's a
15 better way to do it. In the meantime, let's just plow ahead.

16 Page 1, message of the board of directors, any comments?

17 A PARTICIPANT: I had one. We spend the second
18 paragraph talking about CSR and recognizing that the
19 corporation must improve its data collection system. And so
20 it seemed to me a bit redundant and over stated to devote the
21 third paragraph to the same subject.

1 I felt that perhaps since we do cover a lot of
2 other ground in the report, I thought it might be more
3 accurate and fair a presentation to say something like during
4 this reporting period among LSC's other principal priorities
5 were -- and then list some of the competition and state
6 planning technology initiatives, strategic planning, the
7 micro conference and role making, something that tracks the
8 text a little bit better.

9 MR. McCALPIN: I think that's fine. I think that's
10 an improvement. I agree.

11 MR. EAKELEY: Okay, Victor, you want to take your
12 hand at something?

13 MR. FORTURO: Will do.

14 MR. EAKELEY: Thank you. Anything else on page 1?
15 Okay, page 2 any comments? Everyone is bashful today or is
16 this because, Billy you've already shot your comments in
17 already. I had one, the third paragraph, fourth line under
18 "funding and grant making." We say they were using
19 approximately 289 million to fund hundreds of legal services
20 programs. Can we be precise to fund -- what's the precise
21 number of legal services programs?

1 MR. McCALPIN: I think 286 by adding some place
2 else; is that right?

3 MR. McKAY: It's currently 237.

4 MR. McCALPIN:: Oh, really. It changes every day.

5 MR. EAKELEY: But can we be precise? Wouldn't it
6 be more -- not only more precise to be precise but also I
7 think a little bit more authoritative?

8 MR. CARDONA: Sure, 237.

9 MR. EAKELEY: Any other comments on 2? How about
10 page 3? How about page 4? Forgive me for doing this,
11 Victor, but on the second line where we say "state-based
12 planning groups," I would propose putting an a after the word
13 state and before the word based. In the same paragraph where
14 we say systems -- fourth line, "systems grants and contracts
15 made during the prior reporting period," can we substitute
16 the word awarded where it says made?

17 MR. CARDONA: Okay.

18 MR. EAKELEY: Anything else on page 4? Are those
19 acceptable everyone?

20 MR. BRODERICK: Yes.

21 MR. EAKELEY: Page 5, any comments or suggestions?

1 You're going to make me the one doing all the --

2 A PARTICIPANT: Heavy lifting.

3 MR. EAKELEY: No, all the nitpicking.

4 MR. CARDONA: That's what was decided on the
5 conversation we had earlier today.

6 MR. EAKELEY: What?

7 MR. CARDONA: That's what was decided on at the
8 conversation we had earlier today.

9 MR. EAKELEY: Set it up so that Eakeley does the
10 nitpicks?

11 MR. McCALPIN: Yes. I did mine.

12 MR. EAKELEY: Well in that first paragraph where we
13 say "competition and final route is under way," I think
14 that's two words, under way.

15 MR. McCALPIN: Yeah, I agree.

16 MR. EAKELEY: And when we -- the third paragraph of
17 the next section under "case service reporting" we say,
18 "Accordingly, LSC submits the total of cases closed for" -- I
19 don't know what we -- do we want to use the word submits or -
20 -

21 MR. McCALPIN: You also don't want to say of cases

1 of 920 --

2 MR. EAKELEY: I think that sentence ought to just
3 be changed.

4 MR. CARDONA: Oh, where -- the second paragraph
5 from the bottom?

6 MR. EAKELEY: Yeah, "to fulfill its pledge."

7 MR. CARDONA: Yes.

8 MR. EAKELEY: It's the sentence that starts,
9 "Accordingly."

10 MR. CARDONA: "Accordingly, LSC submits a total."

11 MR. EAKELEY: Or LSC estimates that or that its
12 grantees closed.

13 MR. CARDONA: Oh, okay.

14 MR. EAKELEY: Or this adjustment yields.

15 MS. BATTLE: LSC receives information, doesn't it?

16 I mean isn't that what we report, information that we get
17 from grantees?

18 MR. EAKELEY: Yeah, but we don't report it in this
19 -- this is not a good reporting mechanism for that.

20 MS. BATTLE: I understand that but just to make the
21 sentence accurate.

1 MR. McCALPIN: Yeah, but we adjusted what they
2 reported.

3 MR. EAKELEY: But maybe the thing to do then is
4 just to say this adjustment reduces the total of cases -- the
5 total cases closed for 1999 to 924,000. And I would like to
6 see a little bit expanded upon that first half of the next
7 sentence. "This figure represents only a portion of the work
8 conducted by LSC grantees." I think this might be an
9 appropriate time to mention that the CSR system does not
10 capture brief referral and advice, community education or the
11 like.

12 MS. FAIRBANKS-WILLIAMS: Yeah, definitely I think
13 that should be in there.

14 MR. EAKELEY: Oh, okay.

15 MR. ERLENBORN: Yeah, otherwise you're not quite
16 sure why you're not capturing it.

17 MR. EAKELEY: Yeah.

18 MR. ERLENBORN: You may be missing some cases
19 closed for instance. It should make it clearer.

20 MR. EAKELEY: Open cases too.

21 MR. McKAY: That's covered in a paragraph on page

1 6, however.

2 MR. McCALPIN: That's right, the first full
3 paragraph.

4 MR. EAKELEY: Or okay. Or maybe we can say here,
5 as indicated below, this figure represents only a portion of
6 the work conducted.

7 MR. McCALPIN: Good idea.

8 MR. EAKELEY: Then I had a question. I know
9 somebody -- what is the purpose of this footnote 3 that runs
10 on from page 5 to page 6?

11 MR. CARDONA: Let me go back and look at footnote -
12 -

13 MR. EAKELEY: Why are we quoting Mr. Shepherd?

14 MR. CARDONA: That was Maurice's suggestion. He
15 thought it helpful to include that. Why, I can't speak for
16 him. I don't know.

17 MR. ERLNBORN: I don't see any reason to call
18 attention to that. We're getting away from the error that
19 that describes and working our way out of the hole. Why
20 bring it up again?

21 MR. EAKELEY: I felt it was awkward too. John

1 McKay, you probably don't have this where you are but this is
2 the footnote that --

3 MR. MCKAY: No, I have it, Doug.

4 MR. EAKELEY: Okay. I just -- it just seemed to me
5 to make even more of an issue that we should be trying to put
6 behind us. And it did not add anything that I could see.

7 MR. MCKAY: I think we can delete it.

8 MS. BATTLE: This is LaVeeda. Just a suggestion,
9 is that a valid question for which legitimate concerns have
10 been raised?

11 MR. MCCALPIN: Where is that?

12 MR. EAKELEY: It's the bottom paragraph.

13 MR. MCCALPIN: Yeah, yeah.

14 MS. BATTLE: Recognizing that legitimate concerns
15 have been raised.

16 MR. CARDONA: Yeah, that's good.

17 MR. EAKELEY: Okay. Anything else on page 5?

18 Page 6 in that first full paragraph that starts "In addition
19 to providing Congress," the last sentence, I would change it
20 a little bit to say, this reporting system will detail and
21 describe -- and then I'd put a comma -- in addition to

1 "actual cases," the delivery of services such as community
2 education. Strike "that are not cases" and then comma,
3 services.

4 MR. FORTURO: Where are you, Doug?

5 MR. EAKELEY: The last sentence in the first full
6 paragraph on page 6, Victor.

7 MR. FORTURO: Okay.

8 MR. EAKELEY: It starts, "This reporting system
9 will detail and describe."

10 MR. FORTURO: Yes, I see it.

11 MR. EAKELEY: "This reporting system will detail
12 and describe" and then insert comma, "in addition to "actual
13 cases" the delivery of services. And then strike "that are
14 not cases, services."

15 MR. ERLENBORN: Did you leave out the word "closed"
16 after cases?

17 MR. EAKELEY: Say that again.

18 MR. ERLENBORN: That's in the preceding sentence.

19 I know and this is referring to the same thing, cases closed,
20 right?

21 MR. EAKELEY: Yeah.

1 MR. ERLNBORN: Or are you saying the reporting
2 system will detail and describe the delivery of cases?

3 MR. EAKELEY: Will detail and describe in addition
4 to actual cases the delivery of services such as community
5 education.

6 MR. ERLNBORN: So maybe you are referring to cases
7 generally not just cases closed?

8 MR. EAKELEY: Correct.

9 MR. ERLNBORN: Okay, then I withdraw my question.

10 MR. EAKELEY: It's my hope it will. And then that
11 last sentence in the next paragraph ought to be FY 2002.

12 MR. CARDONA: Yes, thank you.

13 MR. EAKELEY: I'm sure Bill caught that. This is
14 page 7.

15 MR. McCALPIN: This was a centennial year.

16 MR. McKAY: Oh excuse me, that is calendar year.

17 MR. EAKELEY: Okay, sorry. I'm not familiar with
18 that.

19 MR. McKAY: It won't go into effect until --

20 MR. EAKELEY; I'm not familiar with that -- I mean
21 I know that we're not in Washington, an acronym's dream.

1 MR. CARDONA: Spell out calendar year?

2 MR. McKAY: Spell that out, yeah.

3 MR. SMEGAL: Tom Smegal checking in a little late.

4 Sorry about that.

5 MR. EAKELEY: Hello, Tom. How are you doing?

6 Okay, we're on page 7.

7 MR. SMEGAL: Seven, okay.

8 MR. EAKELEY: Thank you. Any other changes for
9 page 6? Any changes on page 7?

10 MR. McCALPIN: Yeah, I have -- I guess you all
11 have a copy with an arrow pointing to --

12 MR. EAKELEY: I'm sorry, I had him --

13 MR. McCALPIN: And that's where I think the quotes
14 ought to become commas.

15 MR. EAKELEY: Oh, okay. The clause, "who also work
16 for an organization that engages in restricted activity,"
17 should be set off by commas instead of quotes?

18 MR. McCALPIN: Right.

19 MR. EAKELEY: Got it. And then the m should be out of
20 -- it should be who. LG funded programs who. No, we had
21 that out.

1 MR. McCALPIN: There's a line through it on my
2 copy.

3 MR. EAKELEY: Actually, there is too. That's
4 right, we should be -- I forgot, I should have mentioned this
5 at the beginning. We should be looking at two things: the
6 draft comments that were circulated on May 22nd and then
7 Victor's additional comments circulated on May 23. And then
8 when we get to them, the May 24 inspector general response.
9 Okay, page 8. We've got one change that's in Victor's May 23
10 which looks fine. Any other changes for page 8?

11 MR. McCALPIN: What about the footnote, you'll have
12 to change the number?

13 MR. EAKELEY: But the footnote would be changed as
14 Bill and Victor suggested in the May 23 fax, right?

15 MR. CARDONA: No, I think since we deleted one
16 footnote, I think the point here is renumbering of footnotes.
17 But that will happen automatically. The word processing
18 software will renumber all the footnotes.

19 MR. ERLNBORN: I thought there was a reason for
20 the arrow to be in this copy you furnished.

21 MR. EAKELEY: Oh, there is. There was -- you have

1 the citation, comma "as amended by and actually"
2 -- they should be lower case a's. The a in as and the a in
3 amended should be lower case.

4 MR. CARDONA: I see.

5 MS. ROGERS: Now is ushered in a word?

6 MR. EAKELEY: Is what?

7 MS. ROGERS: Ushered in with a hyphen.

8 MR. EAKELEY: Where is that?

9 MS. ROGERS: Under FOIA, first line.

10 MR. ERLENBORN: Yeah, in the first line, last
11 paragraph.

12 MS. ROGERS: Yeah, you want to take the hyphen out
13 of there?

14 MR. ERLENBORN: I think so, yeah.

15 MR. EAKELEY: First line, last paragraph.

16 MR. ERLENBORN: LSC -- the very first line there.

17 MR. EAKELEY: Oh, yes. Yeah.

18 MR. SMEGAL: Is that some sort of a congressional
19 term, ushered?

20 MR. CARDONA: No, I'm from New York, as in house
21 of.

1 MR. EAKELEY: Okay, page 9. That's an easy one,
2 two lines. Page 10. On the fifth line from the top, I took
3 out a couple of commas and added one. "This follow-up
4 entailed various efforts ranging from letters and telephone
5 contacts" -- and I'd take out the comma -- "to corrective
6 action" take out the comma and comma "where warranted" comma.

7

8 MR. ERLNBORN: Second the motion.

9 MR. EAKELEY: And then I'd continue with the
10 sentence "In addition, steps have been taken," rather than
11 are taken.

12 MR. CARDONA: As a new sentence?

13 MR. EAKELEY: No, change the verb tense to have.

14 MR. CARDONA: Have, okay.

15 MR. McCALPIN: I drew a squiggly line in the margin
16 opposite that first sentence.

17 MR. EAKELEY: I did too, Bill.

18 MR. McCALPIN: What is a 5 percent error level?

19 MR. EAKELEY: Exactly, I think we need to explain
20 that.

21 MR. McCALPIN: Yeah, and 10 percent error level.

1 That apparently was some requirements of the self
2 certification.

3 MR. EAKELEY: Yeah, I think we might want a lead in
4 that says something like during the last report or in
5 calendar year 1998 or 9, whenever it was, the corporation
6 required all of its grantees to go through a process of self
7 certification, a process of analysis of their CSRs and a self
8 certification of their accuracy. And for something like that
9 Victor --

10 MR. FORTURO: Sure, I'll insert a sentence, maybe
11 two that will provide that background, set the stage.

12 MR. EAKELEY: Then on that second paragraph I saw
13 another excess comma on the second line after the word
14 reporting.

15 MR. McCALPIN: Oh, yeah.

16 MR. CARDONA: That's the second paragraph?

17 MR. EAKELEY: Yeah. In the past six months OCEs
18 mission to management and reporting.

19 MR. CARDONA: Oh, yes. I see it.

20 MR. EAKELEY: Delete comma, where the department
21 can conduct four on-site reviews which -- how do you spell

1 focused, with one or two fs -- s's.

2 MR. CARDONA: One.

3 MS. BATTLE: Spell check.

4 MR. CARDONA: Focussed (sic). It depends on how
5 you pronounce it.

6 MR. EAKELEY: Yeah, right. Anything else on page
7 10?

8 MR. BATTLE: Are those two blanks supposed to just
9 have X number of in them?

10 MR. CARDONA: Yes.

11 MS. BATTLE: Okay.

12 MR. McCALPIN: Doug, I'm not quite sure where Ed's
13 first comment falls under this particular --

14 MR. EAKELEY: It comes on the very next page, Bill.

15 MR. McCALPIN: Oh, okay.

16 MR. CARDONA: I think it's that first paragraph.

17 MR. EAKELEY: First paragraph, page 11 where
18 there's also another surplus comma after the perhaps
19 mistakenly hyphenated word on site.

20 MR. CARDONA: On site, oh, yes.

21 MR. EAKELEY: The OCE went on site and tested

1 procedures. So no comma and I don't think you need a hyphen.

2 MR. McCALPIN: I think there should not be a comma
3 after the word Maryland in the second line. "The Legal Aide
4 Bureau asserted," you don't separate the subject and the
5 predicate.

6 MR. EAKELEY: I deliberately left that for you to
7 catch, Bill.

8 MR. McCALPIN: Thank you. I'm glad I earn my keep.

9 MR. CARDONA: I've got this problematic word
10 processing software. It just throws in commas randomly.
11 I've got to switch that. Jack, can we do something about
12 that?

13 MS. FAIRBANKS-WILLIAMS: Well you'd better stop
14 typing. You see it's when you stop typing that they throw in
15 a comma.

16 MR. EAKELEY: Now the IG commented on this
17 particular paragraph and he charges that the denial of access
18 to the OIG remains unaddressed by management actions. John
19 or Victor, is this -- we're now in court on this program, are
20 we not?

21 MR. FORTURO: Yes.

1 MR. EAKELEY: My suggestion would be to leave this
2 paragraph as it is and finesse the issue because it's out of
3 our hands.

4 MR. McKAY: Yeah, Douglas, John. We are in court
5 tomorrow on not precisely this issue but it is the access
6 issue and it does relate to the Legal Aide Bureau. It's with
7 regard to his data call. This arose on I believe his
8 previous 1998 CSR and we would could quibble with him. He
9 just made a comment to the board. I don't think he's quite
10 accurate. He referred his lack of access issue to LSC
11 management who went in fact on site and engaged in numerous
12 discussions with the Legal Aide Bureau and worked out a
13 solution which was satisfactory to management.

14 I mean my position is he referred it to management
15 for action. We took action. We were satisfied that the
16 information they provided, which essentially was the same as
17 the GAO model, was satisfactory. So I'd suggest that you're
18 right, we ought to just leave it.

19 MR. EAKELEY: I mean as I read his comment, this is
20 not an inaccurate statement as it is currently written.

21 MR. McKAY: His comment.

1 MR. EAKELEY: His comment does not charge that this
2 paragraph is inaccurate, merely that --

3 MR. McKAY: From his view, management does not
4 address his position.

5 MR. EAKELEY: Right. And we would disagree but I
6 think Ed would agree about that.

7 MR. McKAY: Ed would even concur I think that given
8 that we're going to get a federal court ruling on an access
9 issue relating to the Legal Aide Bureau, I think this is
10 going to go by the way side.

11 MR. EAKELEY: I would propose that we leave the
12 paragraph as is, fellow board members.

13 MR. McCALPIN: I'll agree.

14 MR. BRODERICK: Second.

15 MR. EAKELEY: Yeah, it's fine. Under complaints
16 there's a note to OCE; is that going to change, Victor?

17 MR. FORTURO: I've discussed it with Danilo and the
18 -- that section which is just the one sentence will remain as
19 is unless the board prefers otherwise. But Danilo advised
20 that it would be preferable to just leave the one sentence.

21 MR. CARDONA: Yeah, that looks fine to me. I just

1 want to make sure that the final version of this doesn't have
2 that note.

3 MR. McCALPIN: No, no, it's doesn't. It's out
4 already.

5 MR. EAKELEY: Okay. Next is page 12. And page 12
6 and 13 have the run on paragraph that again actually has been
7 edited pursuant to Victor's May 23rd fax and we had a
8 response from Ed. But before we get to that last paragraph
9 that runs from page 12 to 13, are there any other changes
10 that anyone wants to suggest for the rest of page 12? Okay,
11 let's address Ed's comment here and the text of this.

12 Let me suggest a modification to the language to
13 accommodate or head off an argument with Ed that I would
14 prefer not having at this time and then explain why I think
15 it might meet the spirit of Bill's suggested change and why
16 we should leave it at that. I would suggest that we stop at
17 the end of the first sentence. I'm on Victor's May 23rd
18 draft now.

19 MR. McCALPIN: Period after the word
20 responsibilities.

21 MR. EAKELEY: Period after the word responsibility.

1 And I would also take out the four words after the word
2 enable in the preceding line, "to enable the OIG or the
3 IPAs." I think we ought to just leave it to -- we don't
4 think legislation is needed or would be appropriate to enable
5 to the IPAs to carry out their responsibilities. Because as
6 I read Ed's -- one of Ed's comments on this is that his
7 legislative fix is addressed only to access by IPAs. And I
8 think we go beyond that and pick a quarrel we don't need to
9 pick at the moment and in an inappropriate vehicle to deal
10 with OIG access and the CSR stuff.

11 MR. McCALPIN: I don't necessarily disagree with
12 that but after some discussion with Victor, whereas the
13 original draft I guess to a greater extent dealt with CSR,
14 this was intended to be broader and to reflect the fact that
15 both the IPA compliance audits and the CSR data gathering
16 covered some of the same issues of financial eligibility,
17 citizenship eligibility and the like. I don't have any
18 objection to your taking the OIG out but I thought that you
19 should understand why it's there.

20 MR. EAKELEY: Bill, I understand very clearly the
21 spirit in which this is offered and I think that the board --

1 I think we have a strong consensus on the board that that is
2 a shared spirit. My concern is to pick a fight that will
3 become a public fight with this IG on this issue when we
4 don't have to. I'd rather choose a different place for
5 taking issue beyond the narrow one presented in his report.

6 MR. McCALPIN: I'm satisfied with that.

7 MR. EAKELEY: And the reason for -- and I do think
8 that the management even may share some perception that not
9 all grantees have been in good faith in the negotiations over
10 access and data. And again, I don't think it's necessary. I
11 think that the most important sentence in our comments is the
12 sentence that leads the paragraph where we say the board is
13 committed to providing assurance of compliance but it's not
14 clear that legislation is needed or would be appropriate.

15 MR. McCALPIN: I wouldn't object to that.

16 MR. EAKELEY: LaVeeda, did I interrupt you?

17 MS. BATTLE: So you're saying you would take out
18 "enable the OIG?"

19 MR. EAKELEY: Yes. We just take out to "enable the
20 OIG" and then we'll just put a full stop to that paragraph
21 after the word responsibilities on the second line.

1 MR. McCALPIN: Well you'd leave enable in, "to
2 enable the IPAs to carry out their responsibilities," period.

3 And then that would be the end of that sentence and
4 paragraph.

5 MR. McCALPIN: You'd take out the rest of the
6 paragraph?

7 MR. EAKELEY: Yes.

8 MR. McCALPIN: I would be inclined to leave the
9 last sentence in.

10 MR. EAKELEY: I have read Victor's comment on that.

11 MR. McCALPIN: You mean -- which comment?

12 MR. EAKELEY: That we need to study it further.

13 MR. McCALPIN: I think it is very unclear about the
14 status of IPAs. I think the case law, if anything, bends in
15 the other direction but I have a summer intern who I have
16 assigned to work on this at considerable extent. But I doubt
17 that we as a corporation ought to be telling the programs
18 that for them to give the IPAs access to client files does
19 not create any problem with the attorney-client privilege or
20 raise any issues under Rule 1.6. I don't think we ought to
21 be doing that.

1 MR. EAKELEY: Well I'm just reacting, Bill, to the
2 conclusion that his view is doubtful under existing case law.

3 Are you relatively -- I read Victor's comments to indicate
4 that it certainly -- it's uncertain but --

5 MR. McCALPIN: What comment are you talking about?

6 MR. EAKELEY: The last sentence that you want to
7 keep in there, the "IG's views of this proposed legislation
8 would not alter current law."

9 MR. McCALPIN: Which comment of Victor's? I don't
10 see Victor's comment.

11 MR. EAKELEY: The one that came --

12 A PARTICIPANT: I think, Doug, you're referring to
13 the transmittal fax of May 22nd.

14 MR. EAKELEY: That's correct.

15 A PARTICIPANT: Bottom of page 2.

16 MR. EAKELEY: Yeah. Now maybe that's not what that
17 was intended to --

18 MR. McCALPIN: I don't have the transmittal fax
19 with me. I'm not in St. Louis.

20 MR. EAKELEY: Victor, let me put you on the spot
21 and ask you how comfortable you are with that last sentence

1 in there, in the revised draft that we're looking at.

2 MR. FORTURO: I think in my judgment that last --
3 the IG's legislative proposal expands the scope of existing
4 law as embodied in what is it -- 509 and 503, 504 of the
5 Appropriations Act.

6 A PARTICIPANT: Yeah, and concludes -- but then
7 adds hurriedly that it doesn't waive the privilege.

8
9 MR. EAKELEY: Yes, so the point that I made was
10 that while -- one, he says that it's simply a clarification
11 of existing law. I question that because I think that it may
12 expand it slightly. However, he does add -- I think then
13 that I agree with Bill that -- I think that I'm comfortable
14 with that last sentence in there like that.

15 MR. McCALPIN: So you'd take out the second last
16 sentence?

17 MR. EAKELEY: I would take out the sentence about
18 good faith negotiations but leave in the last sentence about
19 the IG's view is doubtful.

20 MR. McCALPIN: Okay.

21 MS. ROGERS: I agree.

1 MR. EAKELEY: Anybody else?

2 MR. ERLNBORN: I don't know if it's relevant to
3 this but I've notice that Randy Uhles has been sending
4 letters. The most recent one, I read a copy of a letter to
5 the legal aide program of northern Indiana which says -- I
6 can't quote exactly but in essence that the IPA has the
7 right to see the client case files and so forth. Do we have
8 that in any way?

9 MR. McCALPIN: I don't think that's right.

10 MR. ERLNBORN: I was just wondering if our
11 position as a board was going to be in any way contrary with
12 the administration.

13 MR. McCALPIN: Well I don't know if it's contrary
14 or not but I think it is sufficiently doubtful that we ought
15 not to be telling that to the programs.

16 MR. CARDONA: I think that federal law does entitle
17 auditors to some materials. I don't think there's an issue
18 as to that. Section 509(h) entitles federal auditors and
19 monitors to access financial records, time records, retainer
20 agreements, client trust funds and eligibility records,
21 client names, as well, notwithstanding Section 1006(b) (3) of

1 the LSC Act. So as to those items which are enumerated
2 in Section 509(h), there is a right of access. If we go
3 beyond that --

4 MR. EAKELEY: Let me cut this off here simply to
5 note that the sole agenda item for today is our comments on
6 this SAR and that if board members would like to inquire
7 further as to the authority and the thinking of management in
8 taking the position that Randy has taken, that maybe a
9 separate informal conference call might be an appropriate
10 thing to set up with Victor.

11 MR. McKAY: Well and me and Randy and John.

12 MR. EAKELEY: Yeah.

13 MR. McKAY: There are a lot of issues at play here.

14

15 MR. EAKELEY: Those issues do not -- I mean I think
16 that the text that we're discussing of the comments, it does
17 as much as we can do in this document. And we're not going
18 to decide this other issue in the course of this quorum even
19 if we were authorized to deal with it in a board meeting, as
20 this is.

21 MR. McKAY: Well, Doug, I hate to thicken the

1 discussion here but I mean why isn't it good enough though to
2 just end with the board's policy position that the board
3 questions whether the legislation is needed or would be
4 appropriate rather than open the door to this issue? And I'm
5 talking about the last sentence there. I kept quiet because
6 I --

7 MS. FAIRBANKS-WILLIAMS: Could I interrupt you for
8 a second? This is Edna. I have Randy's thing here. And it
9 says here, "including eligibility records, client names shall
10 be made available to any auditor or monitor of the
11 recipient."

12 MR. ERLNBORN: The reason I raise this issue is I
13 think that what this says in the last sentence does conflict
14 with the policy and practice of the administration. And I
15 think what I'm suggesting is we ought not say this here until
16 we resolve that issue.

17 MR. McCALPIN: Well all we said is that we don't
18 necessarily agree with the IG's view that his legislation
19 doesn't alter the law. And Victor has already said that he
20 agrees with that.

21 MR. McKAY: Yeah, but Bill's problem is -- well

1 your view is different than that, according I think to the
2 comments you just made. And I'm not sure that given that
3 there is not a board policy on that point and perhaps the law
4 isn't clear in all 50 states, that we want to open that point
5 here and then SAR to the Congress. I don't think the board
6 has a position on it.

7 MR. ERLNBORN: Is it necessary for us to make this
8 stand at this time is the question.

9 MR. McCALPIN: Well basically this whole thing
10 started because I didn't want Ed's communication to the
11 Congress to be the only and last word on the subject of his
12 proposed legislation. And I thought that it was important
13 for the Congress to understand that his view is not all that
14 there is to be said.

15 MR. EAKELEY: Yeah, but still -- you can tell I'm
16 waffling on this. If we go back, that first sentence
17 expresses very effectively the point you just made. It's not
18 clear the legislation is needed or would be appropriate. And
19 I just looked back to Ed's fax to me and he says at the end -
20 - and John Erlenborn picked this up -- the suggestion to the
21 effect that it is doubtful that IG's legislative proposal

1 would have no effect on current law would seem to contradict
2 LSC's stated position.

3 So this could be used as a wedge issue between
4 management and board at a time where we're not -- we don't
5 have the means of resolving the debate by conference call.

6 MR. McCALPIN: Well it would seem to me the sooner
7 we get into it, the better.

8 MR. EAKELEY: That is a fair observation. I don't
9 think we disagree with you there.

10 MR. ERLNBORN: But maybe we ought to be better
11 prepared for this battle and just raise it in this forum.

12 MR. EAKELEY: I go back to my original preference
13 to keep the target as narrowly focused as we can and to pick
14 our turf for broader disagreements.

15 MS. ROGERS: Could we say that the board has not --
16 well I guess it doesn't sound right -- hasn't had an
17 opportunity to discuss that new proposal but substantial
18 questions have been raised?

19 MR. EAKELEY: But Nancy, I think anything we add to
20 qualify that first sentence actually reduces its force
21 because we're saying we don't think that -- it's not clear

1 that legislation is needed or would be appropriate.

2 MR. ERLNBORN: And anything further you say begins
3 the debate that we want to avoid getting into at this time.

4 MR. ROGERS: Maybe the word appropriate doesn't
5 seem quite strong enough to me -- wise or the correct, the
6 right action or --

7 MR. BRODERICK: Appropriate or necessary.

8 MR. EAKELEY: Well, that's -- needed or is
9 necessary or appropriate.

10 MS. ROGERS: Well to say something isn't needed is
11 a very weak defense because you often codify the common law.
12 So we need to say one more thing beyond needed.

13 MR. EAKELEY: Yeah, no, I agree that it -- I was
14 comfortable with appropriate but I think needed or
15 appropriate.

16 MR. ERLNBORN: I like appropriate better. I'd
17 rather be told that I was inappropriate rather than unwise.

18 MS. WATLINGTON: Oh, my.

19 MR. EAKELEY: Are other people relatively
20 comfortable with appropriate?

21 MR. McCALPIN: I think it's appropriate.

1 MR. EAKELEY: Nancy, would you go along with it?

2 MS. ROGERS: I would go along because I can't think
3 of a stronger word but if there's a stronger word, I would
4 like it.

5 MR. ERLENBORN: I think we have to be a little
6 vague at this point because we really have not taken a
7 position except to say that we'd like the result to be that
8 the intent of Congress be carried out. But how that is to be
9 done, we really have not decided.

10 MS. WATLINGTON: I hasn't been determined.

11 MR. ERLENBORN: We could endorse the IG, IG's
12 proposal. We could point out shortcomings in the IG's
13 proposal, we could come up with our own. But if these things
14 have not yet been determined, we ought to just shy away from
15 this at this time.

16 MR. EAKELEY: I think we've drawn the line but have
17 we done it carefully? And this is probably about as much as
18 we can do in this document. But I think as a follow-up, and
19 although we can't take any action outside of the agenda
20 today, it might be helpful if John Erlenborn and Bill
21 McCalpin could confer at least telephonically with Randy and

1 John McKay and Victor and pursue this other issue further.

2 MR. ERLNBORN: Yeah, it's probably time that we
3 did that.

4 MR. MCKAY: We'll try to do that.

5 MR. EAKELEY: Yeah, great. All right, any other
6 comments or suggestions to the board's comments to the OIG
7 SAR? Was that meant to be a comment? Hearing none --

8 MR. ERLNBORN: I move for adoption.

9 MR. EAKELEY: Mr. Erlenborn has moved that the
10 comments be adopted as amended. Is there a second?

11 MS. WATLINGTON: Second.

12 MR. EAKELEY: Any further debate or discussion?

13 MR. EAKELEY: Hearing none, all those in favor?

14 PARTICIPANTS: Aye.

15 MR. EAKELEY: Those opposed.

16 (No response.)

17 MR. EAKELEY: All those abstaining.

18 (No response.)

19 MR. EAKELEY: The ayes have it. Comments as
20 amended are adopted. May I have your authorization to
21 approve the final draft as we have discussed and sign it?

1 MR. BRODERICK: You have mine.

2 MS. WATLINGTON: I make a motion.

3 MR. EAKELEY: Okay, Ernestine has moved.

4 MS. FAIRBANKS-WILLIAMS: I'll second your motion,
5 Ernestine.

6 MR. EAKELEY: And is there a second?

7 MS. FAIRBANKS-WILLIAMS: I second Ernestine's
8 motion.

9 MR. EAKELEY: Edna, thank you. All those in favor.

10 PARTICIPANTS: Aye.

11 MR. EAKELEY: Opposed.

12 (No response.)

13 MR. EAKELEY: Abstained.

14 (No response.)

15 MR. EAKELEY: The ayes have it and I consider
16 myself authorized within the limits of the debate. Have a
17 wonderful Memorial Day weekend everyone. And again,
18 Ernestine, best of luck to you and your family and we'll be
19 thinking about you.

20 MS. WATLINGTON: Thank you for your thoughts. Your
21 concerns mean a lot to me.

1 MR. EAKELEY: Well you mean a lot to us.

2 MS. WATLINGTON: Okay, thank you.

3 MR. EAKELEY: Bye, bye.

4 (Whereupon, at 4:51 p.m., the meeting was
5 adjourned.)

6 * * * * *

7